

IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 15024 of 2005

Between:

M/s Maurya Quality Food point Opp. Secretariat, Saifabad, Hyderabad, rep by its
Proprietor, Mr.J.Eshwar Prasad.

..... PETITIONER

AND

1. The Addl. Commissioner of Commercial Taxes (Legal) A.P. Office of the
Commissioner (CT), Commercial Taxes Complex Nampally Station
Rd., Hyderabad.
2. The Appellate Dy. Commissioner of Commercial Taxes, Secunderabad
Division, Hyderabad.
3. The Commercial Tax Officer, Basheerbagh Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or a direction, particularly one in the nature of a writ of Mandamus, declaring the action of the 1st respondent in rejecting the revision (Stay) Application by his order in CCT's Ref.No.L.III (1)/660/2005, dt.24.6.2005 (Served on the petitioner on 1-7-2005) in respect of the assessment year 2003-04 (APGST) PENDING APPEAL BEFORE THE 2ND Respondent, as illegal, arbitrary and unconstitutional besides being quite contrary to the authoritative pronouncements of this Hon'ble Court and consequentially direct the 3rd respondent not to take coercive steps for realisation of the disputed tax of Rs.2,73,388/- and pass such other order or orders.

Counsel for the Petitioner: MR.A.K.JAISWAL.

Counsel for the Respondents .: GP FOR COMMERCIAL TAX.

The Court at the stage of admission made the following :

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

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WRIT PETITION NO.15024 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice J. Chelameswar)

This writ petition is filed with the prayer as follows:

“For the reasons set out in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or a direction, particularly one in the nature of a Writ of Mandamus, declaring the action of the 1st respondent in rejecting the Revision (Stay) Application by his order in CCT's Ref. No. L.III(1)/660/2005, Dated 24-6-2005 (served on the petitioner on 01-7-2005) in respect of the assessment year 2003-2004 (APGST) pending appeal before the 2nd Respondent, as illegal, arbitrary and unconstitutional besides being quite contrary to the authoritative pronouncements of this Hon'ble Court and consequentially direct the 3rd respondent not to take coercive steps for realization of the disputed tax of Rs.2,73,388/- and pass such other order or orders as may be deemed fit and proper in the circumstances of the case and in the interests of justice.”

The petitioner is a registered dealer under the Sales Tax carrying on business of eatery restaurant. The premises of the petitioner was inspected on 14-09-2004 by the respondents. On the basis of the material said to have been discovered at the

time of inspection, an addition of Rs.39,56,760/- to the turnover of the petitioner for the assessment year 2003-2004 was made, in the assessment order dated 30-12-2004. Aggrieved by the said order, the petitioner preferred an appeal before the 2nd respondent. Along with the appeal he preferred an application for stay of collection of the tax demanded. The said application was dismissed. Aggrieved by the same, the petitioner herein preferred a Revision before the 1st respondent, which was also dismissed by an order dated 24-06-2005 and hence the present writ petition.

Heard the learned Government Pleader for Commercial Taxes.

In the circumstances, we deem it appropriate to dispose of the writ petition with a direction that there shall be an interim stay of the collection of the tax demanded from the petitioner i.e. Rs. 39,56,760/- in respect of the assessment year 2003-2004, on condition of the petitioner depositing half of the said amount within a period of four weeks from today. The said stay shall operate during the pendency of the appeal before the 2nd respondent.

With the above direction, the writ petition is disposed of at the stage of admission. In the circumstances, there shall be no order as to costs.

J.Chelameswar, J

M.Venkateswara Reddy, J

13th July 2005

mrk

To

1. The Addl. Commissioner of Commercial Taxes (Legal) A.P. Office of the Commissioner (CT), Commercial Taxes Complex Nampally Station Rd., Hyderabad.

2. The Dy. Commissioner of Commercial Taxes, Secunderabad Division, Hyderabad.
3. The Commercial Tax Officer, Basheerbagh Circle, Hyderabad.
4. Two CCs to the G.P. for Commercial Tax, High Court of A.P., Hyderabad (OUT).
5. Two CD copies.